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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN GABRIEL MOSQUEDA,

Defendant and Appellant.

B237607

(Los Angeles County
Super. Ct. No. BA376391)

APPEAL from a judgment of the Superior Court of Los Angeles County, Alex Ricciardulli, Judge. Dismissed.

Gregory P. Humphries, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General and Daniel C. Chang, Deputy Attorney General, for Plaintiff and Respondent.

On February 24, 2011, defendant, Juan Gabriel Mosqueda, pled no contest to a drug charge. Defendant's probable cause certificate issuance request was denied. Defendant filed a mandate petition seeking to compel the trial court to issue a probable cause certificate. We summarily denied defendant's mandate petition. (*Mosqueda v. Superior Court* (Dec. 27, 2011, B237644) petn. denied [nonpub. order].) We then noted we may not have jurisdiction over this appeal. We have a duty to raise issues concerning our jurisdiction on our own motion. (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126; *Olson v. Cory* (1983) 35 Cal.3d 390, 398.) As a result, on January 26, 2012, we issued an order to show cause concerning possible dismissal of this appeal. Defendant had filed a review petition from our summary denial of his mandate petition. We awaited the outcome of defendant's review petition before deciding the merits of our order to show cause. On March 14, 2012, defendant's review petition was denied by our Supreme Court. (*Mosqueda v. Superior Court* (Mar. 14, 2012, S199226) petn. denied [nonpub. order].)

Defendant has failed to fully and timely comply with both Penal Code section 1237.5 and California Rules of Court, rule 8.304(b). (*In re Chavez* (2003) 30 Cal.4th 643, 651; *People v. Mendez* (1999) 19 Cal.4th 1084, 1099; *People v. Way* (2003) 113 Cal.App.4th 733, 736.) Without a probable cause certificate, defendant cannot appeal. (*People v. Kaanehe* (1977) 19 Cal.3d 1, 8; *People v. Ribero* (1971) 4 Cal.3d 55, 61; *People v. West* (1970) 3 Cal.3d 595, 600-601; *People v. Ward* (1967) 66 Cal.2d 571, 574-576.) Moreover, the notice of appeal fails to comply with California Rules of Court, rule 8.304(b)(4)(B) in that it does not state defendant is appealing from matters occurring after the plea which do not affect its validity. (*People v. Mendez, supra*, 19 Cal.4th at p. 1096; see *People v. Fulton* (2009) 179 Cal.App.4th 1230, 1235-1236, overruled on a different point in *People v. Maultsby* (2012) 53 Cal.4th 296, 298.) Thus, defendant's appeal must be dismissed.

The appeal is dismissed.

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TURNER, P.J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.